

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAVID TARABOCHIA,

Petitioner,

v.

DEPARTMENT OF CORRECTIONS,

Respondent.

Case No. C05-5516RJB

ORDER TO SHOW CAUSE

This matter is before the Court on petitioner's petition for writ of *habeas corpus* pursuant to 28 U.S.C. § 2254. The Court, having reviewed petitioner's petition and the balance of the record, hereby finds and ORDERS:

Petitioner has failed to name a proper respondent. Rule 2(a) of the Rules Governing Section 2254 Cases in the United States District Courts reads in relevant part:

If the applicant is presently in custody pursuant to the state judgment in question, the application shall be in the form of a petition for a writ of *habeas corpus* in which the state officer having custody of the applicant shall be named as respondent

A petitioner for *habeas corpus* relief, therefore, must name the state officer having custody of him or her as the respondent to the petition. This person typically is warden of the institution where the petitioner is incarcerated. Failure to name the petitioner's custodian deprives federal courts of personal jurisdiction. Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994 (citations omitted)). In this case, petitioner has named the Department of Corrections as respondent. The Department of Corrections is not a proper respondent in a *habeas corpus* petition.

1 Accordingly, the Court shall not serve the petition on respondent. In addition, petitioner shall file
2 by **no later than October 13, 2005**, an amended petition naming a proper respondent, or show cause why
3 this matter should not be dismissed.

4 The Clerk shall send a copy of this Order to petitioner.

5 DATED this 13th day of September, 2005.

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9 Karen L. Strombom
10 United States Magistrate Judge
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